

(A) The employee no longer wishes to receive advance earned income credit payments; or

(B) There has been a change of circumstances which has the effect of either making the employee ineligible for the earned income credit for the taxable year or causing a certificate to be in effect for the employee's spouse, then the employee must revoke the certificate previously furnished by furnishing the employer a new certificate (Form W-5 or identical form) in revocation of the earlier certificate. Depending upon the nature of the change of circumstances, the employer may be required, pursuant to the new certificate, to pay further advance earned income credit amounts to the employee (but in different amounts than previously paid to the employee). The Form W-5 (or identical form) must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In the case of revocation due to change of circumstances, the new certificate in revocation must be delivered to the employer within ten days after the employee first learns of the change of circumstances. The new certificate is effective under the rules provided in paragraph (c)(2) of this section for later certificates. A new certificate furnished by an employee which is invalid within the meaning of paragraph (b)(2) of this section is considered a nullity with respect to all payments of wages thereafter to the employee. The prior certificate of the employee remains in effect, unless the employee clearly indicates by an oral or written statement to the employer that the prior certificate is invalid. See paragraph (b)(2) of this section. The employer is not required to ascertain whether any employee has experienced a change of circumstances described in subdivision (B) of this paragraph which necessitates the employee's furnishing a new certificate. However, the employer should inform the district director if the employer has reason to believe that an employee has experienced a change of circumstances as described if the employee does not deliver a new certificate

the employer within the ten day period.

(ii) *Change in spouse's certificate.* If, after an employee has furnished an earned income credit advance payment certificate stating that a certificate is in effect for the spouse of the employee, the certificate of the spouse is no longer in effect, the employee may furnish the employer with a new certificate which reflects this change of circumstances.

(68 Stat. 917, 26 U.S.C. 7805)
(T.D. 7766, 46 FR 10152, Feb. 2, 1981)

Subpart G—Administrative Provisions of Special Application to Employment Taxes (Selected Provisions of Subtitle F, Internal Revenue Code of 1954)

§ 31.6001-1 Records in general.

(a) *Form of records.* The records required by the regulations in this part shall be kept accurately, but no particular form is required for keeping the records. Such forms and systems of accounting shall be used as will enable the district director to ascertain whether liability for tax is incurred and, if so, the amount thereof.

(b) *Copies of returns, schedules, and statements.* Every person who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as a part of his records.

(c) *Records of claimants.* Any person (including an employee) who, pursuant to the regulations in this part, claims a refund, credit or abatement, shall keep a complete and detailed record with respect to the tax, interest, addition to the tax, additional amount, or assessable penalty to which the claim relates. Such record shall include any records required of the claimant by paragraph (b) of this section and by §§ 31.6001-2 to 31.6001-5, inclusive, which relate to the claim.

(d) *Records of employees.* While not mandatory (except in the case of claims), it is advisable for each employee to keep permanent, accurate records showing the name and address

of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, the information with respect to himself which is required by the regulations in this subpart to be kept by employers, and the statements furnished in accordance with the provisions of § 31.6051-1.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers, and shall at all times be available for inspection by such officers.

(2) Except as otherwise provided in the following sentence, every person required by the regulations in this part to keep records in respect of a tax (whether or not such person incurs liability for such tax) shall maintain such records for at least four years after the due date of such tax for the return period to which the records relate, or the date such tax is paid, whichever is the later. The records of claimants required by paragraph (c) of this section shall be maintained for a period of at least four years after the date the claim is filed.

(f) *Cross reference.* See §§ 31.6001-2 to 31.6001-5, inclusive, for additional records required with respect to the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, the Federal Unemployment Tax Act, and the collection of income tax at source on wages, respectively.

§ 31.6001-2 Additional records under Federal Insurance Contributions Act.

(a) *In general.* (1) Every employer liable for tax under the Federal Insurance Contributions Act shall keep records of all remuneration, whether in cash or in a medium other than cash, paid to his employees after 1954 for services (other than agricultural labor which constitutes or is deemed to constitute employment, domestic service in a private home of the employer, or service not in the course of the employer's trade or business) performed for him after 1936. Such records shall show with respect to each employee receiving such remuneration—

(i) The name, address, and account number of the employee and such additional information with respect to the employee as is required by paragraph (c) of § 31.6011(b)-2 when the employee does not advise the employer what his account number and name are as shown on an account number card issued to the employee by the Social Security Administration.

(ii) The total amount and date of each payment of remuneration (including any sum withheld therefrom as tax or for any other reason) and the period of services covered by such payment.

(iii) The amount of each such remuneration payment which constitutes wages subject to tax. See §§ 31.3121(a)-1 to 31.3121(a)(12)-1, inclusive.

(iv) The amount of employee tax, or any amount equivalent to employee tax, collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected. See paragraph (b) of § 31.3102-1 for provisions relating to collection of amounts equivalent to employee tax.

(v) If the total remuneration payment (subdivision (ii) of this subparagraph) and the amount thereof which is taxable (subdivision (iii) of this subparagraph) are not equal, the reason therefor.

(2) Every employer shall keep records of the details of each adjustment or settlement of taxes under the Federal Insurance Contributions Act made pursuant to the regulations in this part. The employer shall keep as a part of his records a copy of each statement furnished pursuant to paragraph (c) of § 31.6011(a)-1.

(3) Every employer shall keep records of all remuneration in the form of tips received by his employees after 1965 in the course of their employment and reported to him pursuant to section 6053(a). The employer shall keep as part of his records employee statements of tips furnished him pursuant to section 6053(a) (unless the information disclosed by such statements is recorded on another document retained by the employer pursuant to subparagraph (1) of this paragraph) and copies of employer state-

ments furnished employees pursuant to section 6053(b).

(b) *Agricultural labor, domestic service and service not in the course of employer's trade or business.* (1) Every employer who pays cash remuneration after 1954 for the performance for him after 1950 of agricultural labor which constitutes or is deemed to constitute employment, of domestic service in a private home of the employer not on a farm operated for profit, or of service not in the course of his trade or business shall keep records of all such cash remuneration with respect to which he incurs, or expects to incur, liability for the taxes imposed by the Federal Insurance Contributions Act, or with respect to which amounts equivalent to employee tax are deducted pursuant to section 3102(a). See §§ 31.3101-3, 31.3111-3, and 31.3121(a)-2 for provisions relating, respectively, to the liability for employee tax which is incurred when wages are received, the liability for employer tax which is incurred when wages are paid, and the time when wages are paid and received. Such records shall show with respect to each employee receiving such cash remuneration—

(i) The name of the employee.

(ii) The account number of each employee to whom wages or such services are paid within the meaning of § 31.3121(a)-2, and such additional information as is required by paragraph (c) of § 31.6011(b)-2 when the employee does not advise the employer what his account number and name are as shown on an account number card issued to the employee by the Social Security Administration.

(iii) The amount of such cash remuneration paid to the employee (including any sum withheld therefrom as tax or for any other reason) for agricultural labor which constitutes or is deemed to constitute employment, for domestic service in a private home of the employer not on a farm operated for profit, or for service not in the course of the employer's trade or business, the calendar month in which such cash remuneration was paid; and the character of the services for which such cash remuneration was paid. When the employer incurs liability for

taxes imposed by the Federal Insurance Contributions Act with respect to any such cash remuneration which he did not previously expect could be subject to the taxes, the amount of any such cash remuneration not previously made a matter of record shall be determined by the employer to the best of his knowledge and belief.

(iv) The amount of employee tax, or any amount equivalent to employee tax, collected with respect to such cash remuneration and the calendar month in which collected. See paragraph (b) of § 31.3102-1 for provisions relating to collection of amount equivalent to employee tax.

(v) To the extent material to a determination of tax liability, the number of days during each calendar year after 1956 on which agricultural labor which constitutes or is deemed to constitute employment is performed by the employee for cash remuneration computed on a time basis.

(3) Every person to whom a "crew leader", as that term is defined in section 3121(i), furnishes individuals for the performance of agricultural labor after December 31, 1958, shall keep records of the name; permanent mail address, or if none, present address and identification number, if any, of such "crew leader".

(T.D. 6516, 25 FR 13032, Dec. 20, 1960, amended by T.D. 7001, 34 FR 1003, Jan. 1969)

§ 31.6001-3 Additional records under Railroad Retirement Tax Act.

(a) *Records of employers.* (1) Every employer liable for tax under the Railroad Retirement Tax Act shall keep records of all remuneration (whether in money or in something which may be used in lieu of money), other than tips, paid to his employees after 1954 for services rendered to him (including "time lost") after 1954. Such records shall show with respect to each employee—

(i) The name and address of the employee.

(ii) The total amount and date of each payment of remuneration to the employee (including any sum withheld therefrom as tax or for any other reason) and the period of service

nents furnished employees pursuant to section 8053(b).

(b) *Agricultural labor, domestic service, and service not in the course of employer's trade or business.* (1) Every employer who pays cash remuneration after 1954 for the performance for him after 1950 of agricultural labor which constitutes or is deemed to constitute employment, of domestic service in a private home of the employer not on a farm operated for profit, or of service not in the course of his trade or business shall keep records of all such cash remuneration with respect to which he incurs, or expects to incur, liability for the taxes imposed by the Federal Insurance Contributions Act, or with respect to which amounts equivalent to employee tax are deducted pursuant to section 102(a). See §§ 31.3101-3, 31.3111-3, and 31.3121(a)-2 for provisions relating, respectively, to the liability for employee tax which is incurred when wages are received, the liability for employer tax which is incurred when wages are paid, and the time when wages are paid and received. Such records shall show with respect to each employee receiving such cash remuneration—

- (i) The name of the employee.
- (ii) The account number of each employee to whom wages for such services are paid within the meaning of 31.3121(a)-2, and such additional information as is required by paragraph (i) of § 31.6011(b)-3 when the employee does not advise the employer what his account number and name are set down on an account number card issued to the employee by the Social Security Administration.
- (iii) The amount of such cash remuneration paid to the employee (including any sum withheld therefrom as tax or for any other reason) for agricultural labor which constitutes or is deemed to constitute employment, for domestic service in a private home of the employer not on a farm operated for profit, or for service not in the course of the employer's trade or business; the calendar month in which such cash remuneration was paid; and the character of the services for which such cash remuneration was paid when the employer incurs liability for

the taxes imposed by the Federal Insurance Contributions Act with respect to any such cash remuneration which he did not previously expect would be subject to the taxes, the amount of any such cash remuneration not previously made a matter of record shall be determined by the employer to the best of his knowledge and belief.

(iv) The amount of employee tax, or any amount equivalent to employee tax, collected with respect to such cash remuneration and the calendar month in which collected. See paragraph (b) of § 31.102-1 for provisions relating to collection of amounts equivalent to employee tax.

(v) To the extent material to a determination of tax liability, the number of days during each calendar year after 1956 on which agricultural labor which constitutes or is deemed to constitute employment is performed by the employer for cash remuneration computed on a time basis.

(2) Every person to whom a "crew leader", as that term is defined in section 3121(i), furnishes individuals for the performance of agricultural labor after December 31, 1954, shall keep records of the name; permanent mailing address, or if none, present address; and identification number, if any, of such "crew leader".

T.D. 6616, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7601, 34 FR 1003, Jan. 23, 1969)

§ 31.6001-5 Additional records under Railroad Retirement Tax Act.

(a) *Records of employers.* (1) Every employer liable for tax under the Railroad Retirement Tax Act shall keep records of all remuneration (whether in money or in something which may be used in lieu of money), other than tips, paid to his employees after 1954 for services rendered to him (including "time lost") after 1954. Such records shall show with respect to each employee—

- (i) The name and address of the employee.
- (ii) The total amount and date of each payment of remuneration to the employee (including any sum withheld therefrom as tax or for any other reason) and the period of service (in-

cluding any period of absence from active service) covered by such payment.

(iii) The amount of such remuneration payment with respect to which the tax is imposed.

(iv) The amount of employee tax collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected.

(v) If the total payment of remuneration (subdivision (ii) of this subparagraph) and the amount thereof with respect to which the tax is imposed (subdivision (iii) of this subparagraph) are not equal, the reason therefor.

(2) The employer shall keep records of the details of each adjustment or settlement of taxes under the Railroad Retirement Tax Act made pursuant to the regulations in this part.

(b) *Records of employee representatives.* Every individual liable for employee representative tax under the Railroad Retirement Tax Act shall keep records of all remuneration (whether in money or in something which may be used in lieu of money) paid to him after 1954 for services rendered (including "time lost") by him as an employee representative after 1954. Such records shall show—

(1) The name and address of each employee organization employing him.

(2) The total amount and date of each payment of remuneration for services rendered as an employee representative (including any sum withheld therefrom as tax or for any other reason) and the period of service (including any period of absence from active service) covered by such payment.

(3) The amount of such remuneration payment with respect to which the employee representative tax is imposed.

(4) If the total payment of remuneration (subparagraph (2) of this paragraph) and the amount thereof with respect to which the employee representative tax is imposed (subparagraph (3) of this paragraph) are not equal, the reason therefor.

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§ 31.4001-4 Additional records under Federal Unemployment Tax Act.

(a) Records of employers. Every employer liable for tax under the Federal Unemployment Tax Act for any calendar year shall, with respect to each such year, keep such records as are necessary to establish—

(1) The total amount of remuneration including any sum withheld therefrom as tax or for any other reason, paid to his employees during the calendar year for services performed after 1938.

(2) The amount of such remuneration which constitutes wages subject to the tax. See § 31.3306(b)-1 through § 31.3306(c)-1.

(3) The amount of contributions paid by him into each State unemployment fund, with respect to services subject to the law of such State, showing separately (i) payments made and neither deducted nor to be deducted from the remuneration of his employees, and (ii) payments made and deducted or to be deducted from the remuneration of his employees.

(4) The information required to be shown on the prescribed return and the extent to which the employer is liable for the tax.

(5) If the total remuneration paid (subparagraph (1) of this paragraph) and the amount thereof which is subject to the tax (subparagraph (2) of this paragraph) are not equal, the reason therefor.

(6) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which each employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. See § 31.3306(c)(3)-1.

The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business. See § 31.3306(b)(7)-1.

(b) Records of persons who are not employers. Any person who employs individuals in employment (see

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§ 31.3306(c)-1 to 31.3306(c)-3, inclusive) during any calendar year but who considers that he is not an employer subject to the tax (see § 31.3306(a)-1) shall, with respect to each such year, be prepared to establish by proper records (including, where necessary, records of the number of employees employed each day) that he is not an employer subject to the tax.

[T.D. 6616, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6668, 28 FR 6642, June 27, 1963]

§ 31.4001-5 Additional records in connection with collection of income tax at source on wages.

(a) Every employer required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by) such employees. Such records shall show with respect to each employee—

(1) The name and address of the employee, and after December 31, 1962, the account number of the employee.

(2) The total amount and date of each payment of remuneration (including any sum withheld therefrom as tax or for any other reason) and the period of services covered by such payment.

(3) The amount of such remuneration payment which constitutes wages subject to withholding.

(4) The amount of tax collected with respect to such remuneration payment, and, if collected at a time other than the time such payment was made, the date collected.

(5) If the total remuneration payment (subparagraph (2) of this paragraph) and the amount thereof which is taxable (subparagraph (3) of this paragraph) are not equal, the reason therefor.

(6) Copies of any statements furnished by the employee pursuant to paragraph (b)(12) of § 31.3401(a)-1 (relating to permanent residents of the Virgin Islands).

(7) Copies of any statements furnished by the employee pursuant to §§ 31.3401(a)(6)-1 and 31.3401(a)(7)-1.

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relating to nonresident alien individuals.

(8) Copies of any statements furnished by the employee pursuant to § 31.3401(a)(8)(A)-1 (relating to residence or physical presence in a foreign country).

(9) Copies of any statements furnished by the employee pursuant to § 31.3401(a)(8)(C)-1 (relating to citizens resident in Puerto Rico).

(10) The fair market value and date of each payment of noncash remuneration, made to an employee after August 9, 1955, for services performed as a retail commission salesman, with respect to which no income tax is withheld by reason of § 31.3402(j)-1.

(11) With respect to payments made in 1958 under a wage continuation plan (as defined in paragraph (a)(2)(i) of § 1.105-4 and § 1.105-5 of this chapter (Income Tax Regulations)), the records required to be kept in respect of such payments are those prescribed under paragraph (b)(8)(i) of § 31.3401(a)-1.

(12) In the case of the employer for whom services are performed, with respect to payments made directly by him after December 31, 1958, under a wage continuation plan (as defined in paragraph (a)(2)(i) of § 1.105-4 and § 1.105-5 of this chapter (Income Tax Regulations))—

(i) The beginning and ending dates of each period of absence from work for which any such payment was made; and

(ii) Sufficient information to establish the amount and weekly rate of each such payment.

(13) The withholding exemption certificates (Forms W-4 and W-4E) filed with the employer by the employee.

(14) The agreement, if any, between the employer and the employee for the withholding of additional amounts of tax pursuant to § 31.3402(i)-1.

(15) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which the employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. (See § 31.3401(a)(4)-1.)

§§ 31.3306(c)-1 to 31.3306(c)-3, inclusive) during any calendar year but who considers that he is not an employer subject to the tax (see § 31.306(a)-1) shall, with respect to each such year, be prepared to establish by proper records (including, where necessary, records of the number of employees employed each day) that he is not an employer subject to the tax.

31.3516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6458, 25 FR 6442, June 27, 1961.

31.3402-5 Additional records in connection with collection of income tax at source on wages.

Every employer required under section 3402 to deduct and withhold the tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by such employees. Such records shall show with respect to each employee—

(1) The name and address of the employee, and after December 31, 1960, the account number of the employee;

(2) The total amount and date of each payment of remuneration (including any sum withheld therefrom for tax or for any other reason) and the kind of services covered by such payment;

(3) The amount of such remuneration payment which constitutes wages subject to withholding;

(4) The amount of tax collected with respect to such remuneration payment, and, if collected at a time other than the time such payment was made, the date collected;

(5) If the total remuneration payment (subparagraph (2) of this paragraph) and the amount thereof which is taxable (subparagraph (3) of this paragraph) are not equal, the reason therefor;

(6) Copies of any statements furnished by the employee pursuant to paragraph (b)(12) of § 31.3401(a)-1 (relating to permanent residents of the Virgin Islands);

(7) Copies of any statements furnished by the employee pursuant to §§ 31.3401(a)(6)-1 and 31.3401(a)(7)-1

relating to nonresident alien individuals.

(8) Copies of any statements furnished by the employee pursuant to § 31.3401(a)(8)(A)-1 (relating to residence or physical presence in a foreign country);

(9) Copies of any statements furnished by the employee pursuant to § 31.3401(a)(8)(C)-1 (relating to citizens resident in Puerto Rico);

(10) The fair market value and date of each payment of noncash remuneration, made to an employee after August 9, 1955, for services performed as a retail commission salesman, with respect to which no income tax is withheld by reason of § 31.3402(j)-1.

(11) With respect to payments made in 1955 under a wage continuation plan (as defined in paragraph (a)(2)(i) of § 1.105-4 and § 1.105-5 of this chapter (Income Tax Regulations)), the records required to be kept in respect of such payments are those prescribed under paragraph (b)(8)(i) of § 31.3401(a)-1.

(12) In the case of the employer for whom services are performed, with respect to payments made directly by him after December 31, 1955, under a wage continuation plan (as defined in paragraph (a)(2)(i) of § 1.105-4 and § 1.105-5 of this chapter (Income Tax Regulations))—

(i) The beginning and ending dates of each period of absence from work for which any such payment was made; and

(ii) Sufficient information to establish the amount and weekly rate of each such payment.

(13) The withholding exemption certificates (Forms W-4 and W-4E) filed with the employer by the employee.

(14) The agreement, if any, between the employer and the employee for the withholding of additional amounts of tax pursuant to § 31.3402(i)-1.

(15) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which the employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. (See § 31.3401(a)(4)-1.)

(16) In the case of tips received by an employee after 1965 in the course of his employment, copies of any statements furnished by the employee pursuant to section 6053(a) unless the information disclosed by such statements is recorded on another document retained by the employer pursuant to the provisions of this paragraph.

(17) Any request of an employee under section 3402(h)(3) and § 31.3402(h)(3)-1 to have the amount of tax to be withheld from his wages computed on the basis of his cumulative wages, and any notice of revocation thereof.

The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business, and does not include tips received by an employee in any medium other than cash or in cash if such tips amount to less than \$20 for any calendar month. See §§ 31.3401(a)(11)-1 and 31.3401(a)(16)-1, respectively.

(b) The employer shall keep records of the details of each adjustment or settlement of income tax withheld under section 3402 made pursuant to the regulations in this part.

T.D. 6816, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6906, 27 FR 8516, Aug. 25, 1962; T.D. 6908, 31 FR 16776, Dec. 31, 1966; T.D. 7091, 34 FR 1603, Jan. 23, 1969; T.D. 7048, 35 FR 16392, June 24, 1970; T.D. 7063, 35 FR 11628, July 21, 1970.

§ 31.6001-6 Notice by district director requiring returns, statements, or the keeping of records.

The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for any of the taxes to which the regulations in this part have application.

§ 31.6011(a)-1 Returns under Federal Insurance Contributions Act.

(a) Requirement.—(1) In general. Except as otherwise provided in

Subtitle F.—Procedure and Administration

Chapter

- 61. Information and returns.
- 62. Time and place for paying tax.
- 63. Assessment.
- 64. Collection.
- 65. Abatements, credits, and refunds.
- 66. Limitations.
- 67. Interest.
- 68. Additions to the tax, additional amounts, and assessable penalties.
- 69. General provisions relating to stamps.
- 70. Jeopardy, receiverships, etc.
- 71. Transfers and fiduciaries.
- 72. Licensing and registration.
- 73. Bonds.
- 74. Closing agreements and compromises.
- 75. Crimes, other offenses, and forfeitures.
- 76. Judicial proceedings.
- 77. Miscellaneous provisions.
- 78. Discovery of liability and enforcement of title.
- 79. Definitions.
- 80. General Rules.

In '88, P.L. 94-599, Sec. 6(g)(1)(E), amended item for chapter 70. Prior to amendment, item 70 read as follows: "70. Jeopardy, bankruptcy, and receiverships."

CHAPTER 61.—INFORMATION AND RETURNS

Subchapter

- A. Returns and records.
- B. Miscellaneous provisions.

Subchapter A.—Returns and Records

Part

- I. Records, statements, and special returns.
- II. Tax returns or statements.
- III. Information returns.
- IV. Signing and verifying of returns and other documents.
- V. Time for filing returns and other documents.
- VI. Extension of time for filing returns.
- VII. Place for filing returns or other documents.

PART I.—RECORDS, STATEMENTS, AND SPECIAL RETURNS

Sec.

6001. Notice or regulations requiring records, statements, and special returns.

Caution: Code Sec. 6001, following, is effective for calendar yrs. begin. before 1/1/83. For Code Sec. 6001, effective for calendar yrs. begin. after 12/31/82, see below.

Sec. 6001. Notice or regulations requiring records, statements, and special returns.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply

with such rules and regulations as the Secretary from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a).

Caution: Code Sec. 6001, following, is effective for calendar yrs. begin. after 12/31/82. For Code Sec. 6001 effective for calendar years begin. before 1/1/83, see above.

Sec. 6001. Notice or regulations requiring records, statements, and special returns.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

In '82, P.L. 97-348, Sec. 314(d), added "records necessary to comply with section 6053(c)," following "charge receipts" in Code Sec. 6001, effective for calendar yrs. begin. after 12/31/82.

In '78, P.L. 95-608, Sec. 301(a), added a new sentence to the end of Code Sec. 6001, for payment made after 12/31/78.

In '76, P.L. 94-471, Sec. 1904(b)(1)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6001, effective 2/1/77.

PART II.—TAX RETURNS OR STATEMENTS

Subpart

- A. General requirement.
- B. Income tax returns.
- C. Estate and gift tax returns.
- D. Miscellaneous provisions.

SUBPART A.—GENERAL REQUIREMENT

Sec.

6011. General requirement of return, statement, or list.

Sec. 6011. General requirement of return, statement, or list.

(a) General rule.

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

Three Assistant Commissioners all in the classified civil service are authorized, and will be available, to perform such functions as may be assigned to them. The intention of the Secretary of the Treasury under the comprehensive reorganization is to utilize one Assistant Commissioner to assist the Commissioner of Internal Revenue in supervising the operations of the district offices, another Assistant Commissioner to aid in the preparation of technical rulings and decisions, and the third Assistant Commissioner to supervise for the Commissioner the inspection activities of the Bureau.

Two additional advantages will be obtained when the reorganization around this new framework is completed.

First, the strong inspection service which the Secretary is establishing will keep the work of the Bureau under close and continuous observation. Working under the direct control of the Commissioner of Internal Revenue it will be responsible for promptly detecting and investigating any irregularities.

Second, the new pattern of organization will strengthen and clarify lines of responsibility throughout the Bureau, thus simplifying and making more effective and uniform the management control of the organization. This is essential in any effort to provide our principal revenue collection agency the best possible administration.

In order to eliminate Presidential appointment and senatorial confirmation with respect to the Assistant General Counsel for the Bureau of Internal Revenue, and in order to provide a method of appointment comparable to that obtaining in the case of other assistant general counsel of the Department of the Treasury, plan No. 1 abolishes that office and provides in lieu thereof a new office of Assistant General Counsel with appointment under the classified civil service.

The success of the reorganization of the Bureau of Internal Revenue will to a considerable extent depend upon the ability to attract the best qualified persons to the key positions throughout the Bureau. In order to do so it is necessary to make provision for more adequate salaries for such key positions. Plan No. 1 establishes in the Bureau of Internal Revenue a maximum of 70 offices with titles determined by the Secretary of the Treasury. Those offices are in addition to the offices with specific titles also provided for in plan No. 1 and to any positions established under other authority vested in the Department of the Treasury. The compensation of these officials will be fixed under the Classification Act of 1949 as amended, but without regard to the numerical limitations on positions set forth in section 505 of that act. This provision will enable the Chairman of the Civil Service Commission or the President, as the case may be, to fix rates of pay for those offices in excess of the rates established in the Classification Act of 1949 for grade GS-15⁺ whenever the standards of the classification laws so permit.

All organizational changes under plan No. 1 will be put into effect as soon as it is possible to do so without disrupting the continued collection of revenue. Plan No. 1 will in any event be effective in its entirety no later than December 1, 1952.

The taking effect of the reorganizations provided for in Reorganization Plan No. 1 of 1952 will make possible many benefits in improved organization and operations which may be expected to produce substantial savings in future years. These savings should not be expected to be reflected in an immediate reduction in expenditure by the Bureau of Internal Revenue but in an improved service to the public and a more efficient collection of revenue.

It should be emphasized that abolition by plan No. 1 of the offices of collectors and others will in no way prejudice any right or potential right of any taxpayer. The abolition of offices by plan No. 1 will not abolish any rights, privileges, powers, duties, immunities, liabilities, obligations, or other attributes of those offices except as they relate to matters of appointment, tenure, and compensation inconsistent with plan No. 1. Under the Reorganization Act of 1949, all of these attributes of office will attach to the office to which the functions of the abolished office are delegated by the Secretary of the Treasury.

After investigation I have found and hereby declare that such reorganization included in Reorganization Plan No. 1 of 1952 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying Reorganization Plan No. 1, by reason of reorganizations

made hereby, provisions for the appointment and compensation of the officers specified therein. The rates of compensation fixed for these officers are not in excess of those which I have found to prevail in respect of comparable officers in the executive branch.

I cannot emphasize too strongly the importance which should be attached to the reorganization plan that I am now transmitting to the Congress. The fair and efficient administration of the Federal internal-revenue laws is of vital concern to every citizen. All of us have a right to insist that the Bureau of Internal Revenue be provided with the finest organization that can be devised. All of us are entitled to have that organization manned by personnel who get their jobs and keep them solely because of their own integrity and competence. This reorganization plan will be a major step in achieving those objectives.

HARRY S. TRUMAN

§ 7805. Rules and regulations

(a) **Authorization.**—Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) **Retroactivity of regulations.**—

(1) **In general.**—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

(A) The date on which such regulation is filed with the Federal Register.

(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

(2) **Exception for promptly issued regulations.**—Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

(3) **Prevention of abuse.**—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

(4) **Correction of procedural defects.**—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

(5) **Internal regulations.** The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

(6) **Congressional authorization.**—The limitation of paragraph (1) may be superseded by a legislative

grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

(7) **Election to apply retroactively.**—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

(8) **Application to rulings.**—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.

(c) **Preparation and distribution of regulations, forms, stamps, and other matters.**—The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) **Manner of making elections prescribed by Secretary.**—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall prescribe.

(e) **Temporary regulations.**—

(1) **Issuance.**—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) **3-year duration.**—Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

(f) **Review of impact of regulations on small business.**—

(1) **Submissions to small business administration.**—After publication of any proposed or temporary regulation by the Secretary, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of such regulation on small business. Not later than the date 4 weeks after the date of such submission, the Chief Counsel for Advocacy shall submit comments on such regulation to the Secretary.

(2) **Consideration of comments.**—In prescribing any final regulation which supersedes a proposed or temporary regulation which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration—

(A) the Secretary shall consider the comments of the Chief Counsel for Advocacy on such proposed or temporary regulation, and

(B) the Secretary shall discuss any response to such comments in the preamble of such final regulation.

(3) **Submission of certain final regulations.**—In the case of the promulgation by the Secretary of any final regulation (other than a temporary regulation) which does not supersede a proposed regulation, the requirements of paragraphs (1) and (2) shall apply, except that—

(A) the submission under paragraph (1) shall be made at least 4 weeks before the date of such promulgation, and

(B) the consideration (and discussion) required under paragraph (2) shall be made in connection with the promulgation of such final regulation (Aug. 16, 1954, c. 736, 68A Stat. 917; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b)(13)(A); 90 Stat. 1834; July 14, 1984, Pub.L. 98-369, Div. A, Title I, § 43(b), 98 Stat. 558; Nov. 10, 1988, Pub.L. 100-647, Title VI, § 6232(a), 102 Stat. 3734; Nov. 5, 1990, Pub.L. 101-508, Title XI, § 11621(a), 104 Stat. 1388-503; July 30, 1996, Pub.L. 104-168, Title XI, § 1101(a), 110 Stat. 1468; July 22, 1998, Pub.L. 105-206, Title III, § 3704, 112 Stat. 777.)

HISTORICAL AND STATUTORY NOTES

Effective Dates

1996 Act. Section 1101(b) of Pub.L. 104-168 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act [July 30, 1996]."

1990 Act. Section 11621(b) of Pub.L. 101-508 provided that: "The amendment made by subsection (a) [amending subsec. (f) of this section] shall apply to regulations issued after the date which is 30 days after the date of the enactment of this Act [Nov. 5, 1990]."

1988 Act. Section 6232(b) of Pub.L. 100-647 provided that: "The amendments made by this section [enacting subsecs. (e), (f) of this section] shall apply to any regulation issued after the date which is 10 days after the date of the enactment of this Act [Nov. 10, 1988]."

1984 Act. Amendment by Pub.L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub.L. 98-369 set out as a note under section 1271 of this title.

1976 Act. Amendment by section 1906(b)(13)(A) of Pub.L. 94-455 effective the first day of the first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d) of Pub.L. 94-455 set out as a note under section 6013 of this title.

Internet Availability of Documents

Section 2003(d) of Pub.L. 105-206 provided that: "In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall to the extent practicable establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database at approximately the same time such guidance is available to the public in paper form."

[Provisions of this note, enacted by section 2003(f) of Pub.L. 105-206 effective July 22, 1998, see section 2003(f) of Pub.L. 105-206 set out as a note under section 6061 of this title.]

§ 7806. Construction of title

(a) **Cross references.**—The cross references in this title to other portions of the title, or other provisions of